

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JOVONNE BURRIS,)	
)	
Plaintiff,)	
)	
vs.)	Case Number CIV-10-844-C
)	
ADVANCED CREDIT RECOVERY,)	
INC., a corporation and VINCENT)	
BIANCO, an individual,)	
)	
Defendants.)	

MEMORANDUM OPINION

Plaintiff filed this action seeking to recover for Defendants’ alleged breach of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”), and the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”).

Plaintiff filed the current motion seeking entry of default against Defendant Advanced Credit Recovery (“ACR”). However, Plaintiff has failed to establish that ACR was properly served with the Second Amended Complaint.¹ Therefore, Plaintiff is not entitled to entry of default.

¹ Although Plaintiff established service of the original complaint, when the Second Amended Complaint was filed, the original complaint was rendered a nullity. See Davis v. TXO Prod. Corp., 929 F.2d 1515, 1517 (10th Cir. 1991).

For the reasons set forth herein, Plaintiff's Motion for Entry of Default (Dkt. No. 11) is DENIED.²

IT IS SO ORDERED this 11th day of April, 2011.



ROBIN J. CAUTHRON
United States District Judge

² Plaintiff's counsel is also directed to comply with LCvR 83.3(a) and 83.4 before proceeding further in this action. Failure to comply with these rules within 20 days of the date of this Order will result in dismissal of this action.